

6147
DECISION



a. *Malaysia*
Project
**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548**

FILE: B-191531

DATE: April 25, 1978

MATTER OF: Solar Electrical Construction Corporation

DIGEST: Request for review of procurement by grantee involving 10-percent minority business enterprise provision of Public Works Employment Act of 1977, which is subject of conflicting U.S. District Court decisions, will not be considered until litigation is finally resolved.

Solar Electrical Construction Corporation (Solar) has requested that we review the award of a contract to E.G. Sawyer Company by the City of Boston, Massachusetts, under a grant from the Economic Development Administration, Department of Commerce. Solar believes that the award may have violated the 10-percent minority business enterprise (MBE) participation requirement established by section 103 of the Public Works Employment Act of 1977, Public Law 95-28, enacted May 13, 1977, 91 Stat. 117.

The MBE provision of the act has been the subject of conflicting United States District Court decisions. See Associated General Contractors of California v. Secretary of Commerce, 441 F. Supp. 955 (C.D. Cal., 1977) and Constructors Association of Western Pennsylvania v. Kreps, 441 F. Supp. 936 (W.D. Pa., 1977). The California decision has been appealed to the United States Supreme Court.

In light of these developments, our Office has taken the position that we will not review complaints concerning compliance with the MBE provision until the litigation is finally resolved. See Campanella Corporation, B-190601, December 27, 1977, 77-2 CPD 507; Just-Tran Construction, Inc., B-191101, January 31, 1978, 78-1 CPD 88; and Capital-York Construction Corp. and J.N. Futia Co., Inc., B-190647, February 1, 1978, 78-1 CPD 96.

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Accordingly, Solar's complaint is dismissed.

Paul G. Dembing
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General Counsel